

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

JAMES ROBERT BONOMELLI,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-07-212-D
	)	
WALTER DINWIDDIE, Warden ,	)	
	)	
Respondent.	)	
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**ORDER**

Petitioner, a state prisoner appearing through counsel, has filed an Application for Certificate of Appealability [Doc. No. 27] to appeal the denial of his Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus. *See* 28 U.S.C. §2253(c)(1)(A).

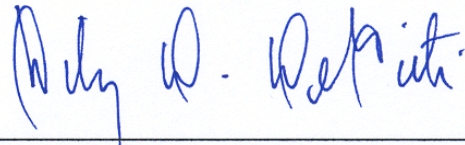
Petitioner is entitled to a certificate of appealability (“COA”) only upon making a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. §2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000). This determination “requires an overview of the claims in the habeas petition and a general assessment of their merits.” *Miller-El*, 537 U.S. at 336. Petitioner need not prove the merits of his case, but he must demonstrate “something more than the absence of frivolity or the existence of mere good faith” on his part. *Id.* at 338. (quotations omitted). Where a habeas petition is denied on procedural grounds without reaching the underlying constitutional claim, a COA may issue only if the petitioner shows both (1) reasonable jurists would

find it debatable whether the petition states a valid claim of the denial of the constitutional right, and (2) reasonable jurists would find it debatable whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484.

Petitioner argues in support of his Application that his constitutional claims, as well as a procedural ruling that prevented federal review of additional claims, deserve consideration by the court of appeals.<sup>1</sup> Upon careful review of the issues and arguments presented, the Court finds that Petitioner has not made the requisite showing and his request for a COA should be denied.

IT IS THEREFORE ORDERED that the Application for a Certificate of Appealability [Doc. No. 27] is DENIED.

IT IS SO ORDERED this 8<sup>th</sup> day of June, 2010.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Petitioner does not address, nor has he previously addressed in this case, the merits of his additional claims.